

REMARKS

Claims 1-16 are pending in the present application. Claims 11 and 14-16 have been rejected under the first paragraph of 35 U.S.C. § 112. Claims 1, 2, 4, 7, 9, 10, 14 and 15 have been rejected under 35 U.S.C. § 102(b) over U.S. Pat. No. 5,542,097 ("Ward"). Claim 3 has been rejected under 35 U.S.C. § 103(a) over Ward in view of U.S. Pat. App. No. 2002/0058493 ("Ikeda"). Claim 6 has been rejected under 35 U.S.C. § 103(a) over Ward in view of U.S. Pat. App. No. 2002/0064131 ("Boesinger"). Claim 8 has been rejected under 35 U.S.C. § 103(a) over Ward in view of JP Pat. App. No. 63-200626 ("Iwasaki"). Claims 5, 12, and 13 have been rejected under 35 U.S.C. § 103(a) over Ward in view of Ikeda and further in view of Boesinger. Claims 11 and 16 have been rejected under 35 U.S.C. § 103(a) over Ward in view of U.S. Pat. No. 6,411,818 ("O'Reilly"). Claims 11, 14, and 16 have been amended hereby. No new matter has been added. Reconsideration of the present application is respectfully requested in light of the above amendments and below remarks.

Applicant wishes to thank the Examiner for conducting a telephone interview on June 18, 2007 with Applicant's representative. No agreement was reached during the interview.

Claims 11 and 14-16 have been rejected under the first paragraph of § 112 as failing to comply with the written description requirements. Claims 11, 14, and 16 have been amended to overcome these § 112 rejections. Claims 11 and 16 are clear and supported in the specification on page 10, lines 10-18. In claim 14, a typographical error was corrected. These amendments do not narrow the scope of the claims, nor do they add new matter. Withdrawal of the rejections to claim 11 and 14-16 under § 112, first paragraph, is therefore respectfully requested.

In paragraph 4 of the Office Action, independent claims 1, 9, and 14 and dependent claims 2, 4, 7, 9, 10, and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ward. Applicant respectfully traverses this rejection.

Claim 1 recites the "failure determining means for determining that a transmitter or a receiver of at least one of said communication terminal and said main apparatus has a failure...and

identifying said transmitter or receiver that has a failure.” Claim 9 recites the “failure determination unit configured to indicate a failure in the transmitter or the receiver.” Claim 14 recites “detecting a failure in the transmitter or the receiver.” Ward fails to teach or suggest each of the above-recited independent claim limitations.

Ward uses a pathloss comparison to determine whether to handoff a mobile station from a serving base station to a target base station. *See* col. 9, l. 1-27. The Office Action contends that Ward discloses the failure feature of the present invention because “a failure is determined if the propagation loss to the main apparatus is smaller than a propagation loss to either communication terminal when such a smaller propagation loss to the main apparatus would cause an inequality in equation 9.” Applicant respectfully disagrees.

Independent claims 1, 19, and 14 explicitly require detecting, determining, or indicating a “failure” in a “transmitter or receiver” in the system. The inability to perform a handoff to a target base station as disclosed in Ward in no way can be considered identifying a “failure” in a “transmitter or receiver,” as explicitly required by independent claims 1, 9, and 14.

In fact, equation 9 in Ward, which is used to calculate the downlink and uplink pathloss for handoff, “assume[es] no errors in the base stations.” *See* col. 9, l. 7. In other words, a central assumption in Ward is that there is no “failure” in the base station.

Indeed, if equation 9 of Ward is not satisfied and there are resulting differences in pathloss, it is solely due to “cochannel radio energy or other disturbances.” *See* col. 9, ll. 16-17. Similarly, at col. 6, ll. 13-25, which was discussed during the interview, Ward discloses that possible causes for pathloss difference are “transmission level inaccuracies and measurement errors,” and teaches how to correct for these errors. It cannot be inferred that inequalities in the pathloss comparison are caused by transmitter or receiver “failure” when Ward explicitly discloses other causes for those inequalities.

In contrast to the present invention, Ward does not disclose using a pathloss difference to determine, detect, or identify a “failure” in a “transmitter or receiver” at all. Rather, Ward discloses using pathloss differences for the purpose of handing off a mobile terminal from a serving base station to a target base station. Therefore, Applicants respectfully submit that claims 1, 9, and 11 are allowable over Ward.

Claims 2, 4, 7, 9, 10, and 15 depend directly from, and contain all the limitations of claims 1, 9, and 14. These dependent claims recite additional limitations, which, in combination with the limitations of claim 1, 9, and 14 are neither disclosed nor suggested by Ward and are also directed towards patentable subject matter. Thus, claims 2, 4, 7, 9, 10, and 15 should also be allowed.

Claim 3 has been rejected under § 103(a) over Ward in view of Ikeda. Claim 6 has been rejected under § 103(a) over Ward in view of Boesinger. Claim 8 has been rejected under § 103(a) over Ward in view of Iwasaki. Claims 5, 12, and 13 have been rejected under § 103(a) over Ward in view of Ikeda and further in view of Boesinger. Claims 11 and 16 have been rejected under § 103(a) over Ward in view of O'Reilly. Applicant respectfully traverses these rejections.

As discussed above, Ward fails to disclose a determination that a “transmitter or receiver” has a “failure.” The secondary references cited above were not included to cure this deficiency, but to allegedly disclose additional features in Applicant's claims. Even if Ward is combined with any of the cited secondary references, however, they do not disclose the claimed limitation of detecting a “failure” in a “transmitter or receiver.” Therefore, Applicant's independent claims 1, 9, and 14 and their dependents, including claims 2-8, 10-13, 15, and 16 are allowable. Accordingly, it is respectfully requested that this rejection be withdrawn.

Applicants have responded to all of the rejections recited in the Office Action.
Reconsideration and Notice of Allowance for all of the pending claims is therefore respectfully requested.

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Respectfully submitted,

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